

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PREPARED FOOD PHOTOS, INC.
F/K/A ADLIFE MARKETING &
COMMUNICTIONS CO. INC.,

Plaintiff,
v.
BILT ENTERPRISES LLC d/b/a J.R.
CRICKETS NORTHLAKE; BILLY
WILLIAMS, individually; and DOES
1-10, inclusive,
Defendants.

Case No. _____

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff, PREPARED FOOD PHOTOS, INC f/k/a ADLIFE MARKETING & COMMUNICATIONS CO., INC. (“PFP”), by and through its undersigned counsel, brings this Complaint against Defendants, BILT ENTERPRISES, LLC (“Bilt Enterprises”); BILLY WILLIAMS (“Willimas”), individually; and DOES 1-10, inclusive, and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, *et seq.*

PARTIES

2. Prepared Food Photos f/k/a Adlife Marketing & Communications Co., Inc. is a Florida corporation with its principal place of business in Boca Raton, Florida.

3. Upon information and belief, Bilt Enterprises is a limited liability company duly organized and existing under the laws of the State of Georgia with a principal place of business at 4805 Briarcliff Road, Ste. 106, Atlanta, Georgia 30345.

4. Upon information and belief, Williams is an individual residing in the State of Georgia.

5. The true names and capacities of Defendants Does 1 through 10, inclusive, are presently unknown to Plaintiff, and for that reason, sues them by such fictitious names. Plaintiff is informed and believes each of the fictitiously-named defendants is responsible in some capacity for the occurrences herein alleged, and on that basis, believes damages as herein alleged were proximately caused by the conduct of Does 1 through 10, inclusive. Plaintiff will seek to amend this complaint when the true names and capacities of Does 1 through 10, inclusive, are ascertained

6. For the purposes of this Complaint, unless otherwise indicated, "Defendant" includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives, and insurers of Defendant named in this caption.

JURISDICTION AND VENUE

7. This Court has original subject matter jurisdiction over copyright claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendant because Defendant has a physical presence in Georgia and Defendant transacts business in Georgia.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)-(c) because a substantial part of the acts giving rise to this claim occurred in this judicial district and Defendant resides in this judicial district. Alternatively, venue is also proper in this Court pursuant to 28 U.S.C. §1400(a) because this civil action arises under the Copyright Act of the United States, and Defendant resides in this judicial district.

FACTUAL ALLEGATIONS

10. PFP and its affiliates are corporations operated by a team of seasoned advertising and marketing professionals. PFP and its affiliate photography team work on a wide variety of projects spanning food styling, product features, studio shoots, and on-site sessions of various subjects. For decades, PFP has created, artistically arranged, and professionally produced a library of still images of food and other grocery items in order to provide elite branding services to its clientele. With its innovative marketing campaigns and its production of high-quality printed pieces, such as retail circulars; signage; pamphlets; and more, PFP enables its

clients to build a brand through compelling visual arrangements.

11. PFP's library now consists of approximately 18,000 photographs. The photographs are high-resolution, artistically-rendered, color-corrected, and color-separated with pleasing angles and selective lighting which makes them particularly valuable.

12. PFP is regularly contracted to provide advertising and marketing services to its clients. For valuable consideration, PFP has licensed the rights to reproduce, distribute, and publicly display its copyrighted photographs, or derivative versions thereof, to people and companies seeking to make use of the photographs for editorials, advertisements, and pecuniary gain. PFP's livelihood depends on receiving compensation for the photographs it produces and licenses, and the copyright protection afforded to PFP's work deters would-be infringers from copying and profiting from its work without permission.

13. PFP is the sole author and exclusive right's holder to the photograph at issue in this dispute: a plate of perfectly-arranged, golden-colored chicken tenders accompanied by a small bowl of white dipping sauce topped with green and yellow garnish ("Chicken Tenders Image"). A true and correct copy of the Chicken Tenders Image is shown below:



14. Adlife registered the Chicken Tenders Image with the United States Copyright Office under Registration Number VA 2-017-741 with an Effective Date of Registration of September 20, 2016. PFP filed a Certificate of Name Change with the Library of Congress on July 22, 2021.

15. PFP is informed and believes Bilt Enterprises is a restaurant providing food, beverages, and live music to its customers and advertises its goods and services on the website <https://www.jrcicketsnorthlake.com/> (“Website”).

16. PFP is informed and believes Williams is the owner of Bilt Enterprises.

17. PFP is informed and believes Bilt Enterprises utilizes the Website for commercial purposes to market the restaurant’s food, beverages, and live music events in order to attract potential customers to its restaurant and also to earn revenue from food and beverages advertised on the Website and purchased for pick up or delivery from the restaurant.

18. PFP is informed and believes Williams and Bilt Enterprises has the ability to supervise and control the content on the Website.

19. On or about June 24, 2019, PFP discovered Bilt Enterprises had used the Chicken Tenders Image on the Website as a feature image on its Location and Hours webpage (“Infringing Feature Image”). A true and correct screenshot of the Infringing Feature Image as used on the Website with the date-stamp is attached hereto as Exhibit A.

20. On or about June 24, 2019, PFP discovered Bilt Enterprises also uploaded a copy of the Infringing Feature Image to its media library at https://static.wixstatic.com/media/be02df_16502d29f44f4ea080aa3dc6aa2f6dd4~mv2.jpg (“Infringing Media Library Feature Image”). This page is publicly viewable and allows anyone with internet access to download the Chicken Tenders Image. A true and correct screenshot of the Infringing Media Library Feature Image with the date-stamp is attached hereto as Exhibit B.

21. On or about April 27, 2020, PFP discovered Bilt Enterprises had used the Chicken Tenders Image in a second location on the Website, as a menu item, to promote sales of its “Wings & Fingers” (“Infringing Menu Image”). True and correct screenshots of the Infringing Menu Image as used on the Website with and without the date-stamp are attached hereto as Exhibit C.

22. On or about April 27, 2020, PFP discovered Bilt Enterprises also uploaded a copy of the Chicken Tenders Image to its media library at https://lh3.googleusercontent.com/e3gbX2pOsFbdNw7qPVUydJgxuP_-ZQKDG78BQjDyzAzvfSdcc8W7OAtsVztqMzgUFyU0gT2i-

DM6m_OIVmgpGK0%3Ds232 (“Infringing Media Library Menu Image”). This page is publicly viewable and allows anyone with internet access to download the Chicken Tenders Image. A true and correct copy of the Infringing Media Library Menu Image with the date-stamp is attached hereto as Exhibit D.

23. PFP has no record of Bilt Enterprises purchasing a license to use the Chicken Tenders Image, and PFP did not consent to or authorize Defendants to use the Chicken Tenders Image in any manner.

24. After discovering each infringement, PFP (through counsel) sent cease and desist correspondence and reached out repeatedly to Bilt Enterprises via email and by telephone to try to resolve the matter.

25. Unfortunately, the parties were unable to reach a resolution, and in fact, after months of contact and hours spent attempting to persuade Bilt Enterprises to take down the Chicken Tenders Image and cease displaying it publicly, as of the date of this Complaint, neither the Infringing Media Library Feature Image nor the Infringing Media Library Menu Image (collectively, “Infringing Media Library Images”) have been removed from the Website’s server and can still be publicly accessed. True and correct screenshots of the Infringing Media Library Images, from October 5, 2021, taken in Google Chrome Incognito Mode, are attached hereto as Exhibit E.

26. PFP is informed and believes Williams and Bilt Enterprises copied PFP’s Chicken Tenders Image and posted, publicized, and otherwise held out to

the public the Chicken Tenders Image in the course and scope of its business activities in order to receive commercial benefit and acquire monetary gain and market benefit as a result of its use.

27. PFP is informed and believes Williams and Bilt Enterprises knew it did not have permission to use the Chicken Tenders Image on the Website and willfully infringed PFP's Chicken Tenders Image.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101, *et seq.*

28. PFP incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

29. Adlife registered the Chicken Tenders Image with the Register of Copyrights pursuant to 17 U.S.C. § 411(a) and owns a valid copyright in the Chicken Tenders Image. PFP filed a Certificate of Name Change with the Library of Congress on July 22, 2021.

30. Williams and Bilt Enterprises (including the employees, agents, contractors or others over whom they have responsibility and control) copied and displayed PFP's unique and original Chicken Tenders Image without PFP's consent or authorization in violation of 17 U.S.C. § 501.

31. PFP is informed and believes and thereon alleges that Williams and Bilt Enterprises willfully infringed upon PFP's copyrighted Chicken Tenders Image in violation of Title 17 of the U.S. Code because, *inter alia*, Bilt Enterprises

used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, PFP's original and unique Chicken Tenders Image without PFP's consent or authority by using it in on the Website. Additionally, Bilt Enterprises knew or should have known it did not have a legitimate license to use the Chicken Tenders Image.

32. As a result of Williams and Bilt Enterprises' violations of Title 17 of the U.S. Code, PFP has sustained significant injury and irreparable harm.

33. As a result of Williams and Bilt Enterprises' violations of Title 17 of the U.S. Code, PFP is entitled to any actual damages pursuant to 17 U.S.C. § 504(b), or statutory damages in an amount up to \$150,000 pursuant to 17 U.S.C. § 504(c).

34. As a result of Williams and Bilt Enterprises' violation of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs from Williams and Bilt Enterprises as well as reasonable attorney's fees as part of the costs pursuant to 17 U.S.C. § 505.

35. PFP is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, PFP prays for judgment against Williams and Bilt Enterprises as follows:

- For an award of actual damages and disgorgement of all profits attributable

to the infringement as provided by 17 U.S.C. §504(b) in an amount to be proven or, in the alternative, at PFP's election, an award for statutory damages against Williams and Bilt Enterprises in an amount up to \$150,000 for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;

- For costs of litigation and reasonable attorney's fees, pursuant to 17 U.S.C. § 505;
- For an injunction forcing Williams and Bilt Enterprises to immediately delete the Chicken Tenders Image from its server and delete any Website backups pursuant to 17 U.S.C. § 502;
- For an injunction preventing Williams and Bilt Enterprises from further infringement of all of PFP's copyrighted works pursuant to 17 U.S.C. § 502;
- For prejudgment and post judgment interest as allowed by law; and
- For any other relief the Court deems just and proper.

Dated: November 19, 2021

Respectfully submitted,

/s/ Jayma C. Leath
Jayma C. Leath, Esq.
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DEMAND FOR JURY TRIAL

Plaintiff, Prepared Food Photos, Inc. f/k/a Adlife Marketing & Communications Co., Inc., hereby demands a trial by jury in the above-matter.

Dated: November 19, 2021

Respectfully submitted,

/s/ Jayma C. Leath
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